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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,883	01/20/2004	Karl Peng		1882

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EXAMINER

ELKINS, GARY E

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,883

Applicant(s)

PENG, KARL

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2006 & 24 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|---|---|

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-8 in the reply filed on 24 February 2006 is acknowledged. Non-elected claims 9-14 have been cancelled.

Specification

2. The disclosure is objected to because of the following informalities: in the last line of section [0036] of the specification, the word "tap" appears to be misspelled.

Appropriate correction is required.

Information Disclosure Statement

3. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-8 are unclear with respect to what is being claimed. The preambles of each claim indicate that a container is claimed. However, in claim 1, lines 3 and 4, "can be expanded" indicates that the container has not yet been formed, i.e. that the blank is being claimed. If the

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container is claimed, then the claim should define that the four side panels ---are expanded---

Also, in claim 1, lines 8, 9, 12 and 13, “for attaching” and “is to be attached” is defining the tape as not yet being a part of the container, i.e. the claim appears to be defining a container and a separate piece of tape rather than a composite of the two, i.e. if a container including a piece of tape is being claimed as indicated by the preambles, then the tape would be attached at least to the first surface.

The following each lack antecedent basis in the claims: claim 1, lines 6 and 11-13, “the folding lines”, “the fabrication process of said container” (two occurrences) and “the assembling and sealing process”.

In each of claims 2 and 5, line 4, “approximately extends to the longitudinal direction” is unclear, i.e. does this mean extends *in* the longitudinal direction?

In claim 7 and 8, “a flap”, “another flap”, “a flap” and “a side panel” are each a double inclusion of an element, i.e. the element is being reintroduced into the claims. Previously defined elements within a claim must be referenced by use of, e.g. ---one of said flaps---, ---another of said flaps---, etc. for clarity within the claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Kim (figs 1-4 emb).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (figs. 1-4 emb) in view of Ames (fig. 5 emb). Kim discloses all structure of the claimed container except formation of the third zone with no adhesive and, with respect to claim 4, a tab at one end of the third zone. Ames teaches that it is known to make the middle third zone without adhesive, i.e. without using a tearing band (14 in Kim) bonded to the third zone on a three zone sealing tape and using a pull tab (15 in Ames) at the end of the tape. It would have been obvious to make the tape in Kim with a middle zone without using a tear band or adhesive and, with respect to claim 4, to make the tape with a pull tab at the end as taught by Ames since elimination of the middle adhesive and attached tear band makes the tape easier to produce and cheaper and inclusion of a pull tab makes the middle section easier to grasp for removal.

9. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (figs. 1-4 emb) in view Ames (fig. 4 emb). Kim discloses all structure of the claimed container except formation of the third zone with no adhesive and delimiting the middle third zone using breaking-off lines. Ames teaches that it is known to make the middle third zone without adhesive, i.e. without using a tearing band (14 in Kim) bonded to the third zone on a three zone sealing tape and using scored breaking lines (17 in Ames) to weaken the tape for tearing. It would have been obvious to make the tape in Kim with a middle zone without using a tear band

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or adhesive and to substitute breaking-off lines or score lines for the perforation lines in Kim as taught by Ames since elimination of the middle adhesive and attached tear band makes the tape easier to produce and cheaper and the use of score lines as opposed to perforation cut lines precludes accidental tearing during shipment, etc.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (figs. 1-4 emb) in view of Killeffer (fig. 3 emb). Kim discloses all structure of the claimed container except securement of the tape to the side wall of a container and being adapted to be secured to a closure flap. Killeffer teaches that it is known to secure the closure flaps of box using tape applied to both the center section between the flaps and along the adjacent side walls and closure flaps. It would have been obvious to seal the box of Kim by applying the tape along both the center section of the closure flaps and along the adjacent side walls and closure flaps as taught by Killeffer to provide a tighter seal along all the exposed corners or seams of the closure flaps.

Conclusion

The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

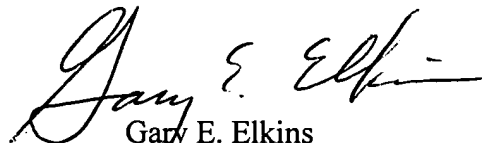
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. Also, copies of an office action or other file information may be obtained from the Private PAIR system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday, Tuesday and Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
29 May 2006